

High's of Baltimore,

Petitioner

* Before The Zoning Board

* of Howard County

* Zoning Board Case 1079M

* * * * *

DECISION AND ORDER

On September 23, 2009, the Zoning Board of Howard County, Maryland, considered the petition of High's of Baltimore to modify a previously approved Preliminary Development Plan ("PDP") in an existing Business-Rural (BR) District to redevelop and modernize an existing gasoline service station and convenience store with a new gasoline service station and convenience store, and to add a new farm supply store. The subject property, a 13.90 acre parcel, is located on the east side of MD 97 approximately 2,900 feet south of MD 144 (Frederick Road) and is described as Tax Map 14, Grid 5, Parcel 256. The address of the subject property is 2145 MD 97.

The notice of the hearing was advertised, the subject property was posted, and adjoining property owners were notified by mail of the date, place and time of the hearing as required by Howard County law as evidenced by the certificates of advertising, posting and mailing to adjoining property owners, which were made part of the record of the hearing. Pursuant to the Zoning Board's Rules of Procedure, all of the official documents pertaining to this case, including the petition, the Department of Planning and Zoning's Technical Staff Report, the Planning Board's Recommendation, and the reports of the responding reviewing agencies, were made a part of the record of the case. The Department of Planning and Zoning and the Planning Board both recommended approval of the petition.

The Petitioner was represented by Thomas M. Meachum, Esquire. No one appeared in opposition to the petition.

After careful evaluation of all the information presented, the Zoning Board makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. The subject property was rezoned from the RC (Rural Conservation) to the BR (Business-Rural) Zoning District in Zoning Board Case 946M. The use of the subject property approved on the PDP in Zoning Board Case 946M was for a gasoline service station with six gas pumps and a convenience store located in a 1.5 acre northern portion of the subject property. The improvements proposed in the original PDP and approved in the original case are proposed to be razed and replaced with a new convenience store and reconfigured gas pump islands. The proposed farm supply store would be a new use on the site. The area of the proposed development in this petition would be expanded from 1.5 acres to 7.169 acres of the entire 13.90 acres subject property.

2. As shown on the proposed amended PDP, Petitioner proposes a 3,500 square foot convenience store and a proposed 48 foot by 115 foot canopy covering four gas pump islands containing a total of 16 fueling stations to be located in the southwestern portion of the site. The convenience store would be set back approximately 200 feet from MD 97 and the gas pump canopy would be set back approximately 95 feet from MD 97. The gasoline service station and convenience store would be open seven days a week and the hours of operation would be from 5:30 a.m. through 11 p.m. A total of 21 parking spaces would be located on the west, north and south sides of the convenience store.

A proposed 12,226 square foot farm supply store would be located in the northern portion of the site. This building would be set back approximately 180 feet from MD 97. A 70 foot by 18 foot garden center is shown on the farm supply store building's north side and a 1,260 square foot outdoor display area is proposed on the building's northeast side. A 100 foot by 145 foot gravel lot/storage area is proposed on the east side of the farm supply store building. The farm supply store would be open seven days a week and the hours of operation would be 7 a.m. through 7 p.m. Monday through Saturday and 11 a.m. through 5 p.m. on Sunday. It is anticipated that there would be three employees on site at any time. 48 parking spaces would be located on the west side of the building and on the south side of the building. There would be a total of 94 parking spaces located on the site.

The Petitioner is proposing two buildings of approximately 16,000 square feet to replace the existing three buildings of approximately 11,000 square feet. The Board accepts Petitioner's statement that the 13.90 acres subject property is large enough to reasonably accommodate this development area of 7.169 acres.

3. The existing driveway entrance on the subject property is proposed to be removed and a new 35 foot wide driveway for access is proposed to be located approximately 220 feet from the northwest corner of the site, approximately 80 feet north of the existing driveway entrance.

The existing septic area at the rear of the site will continue to be utilized for the proposed uses. A barn is located adjacent to the south property line. A landscape plan is included with the proposed amended PDP.

4. As indicated in DPZ's Technical Staff Report, all of the proposed uses would require the provision of 74 parking spaces on the site and Petitioner has proposed 20 parking spaces over that required minimum number.

5. The Board accepts Petitioner's statement that the improvement and modernization of the site, as proposed, would be an accommodation to the residents in the area, since there is no other gasoline service station on MD 97 in Howard County, and that this concentrated development on an already commercially zoned site on a minor arterial road does not detract from this rural area of the County.

6. The Board accepts and agrees with the findings of DPZ in its Technical Staff Report with respect to the criteria applicable to this petition.

CONCLUSIONS OF LAW

1. The subject property was already rezoned in ZB Case 946M so the Board will not revisit the issues related to Section 117.1G.3.b. of the Zoning Regulations because none of the facts related to Section 117.1B. have changed with respect to the subject property. The criteria contained in Section 117.1G.3.(a), (c), (d) and (e) would be relevant to the proposed amended PDP development.

2. The Board is required to address whether the proposed additional use, the farm supply store, and the proposed redeveloped gasoline service station and convenience store, meet the criteria of Section 117.1G.3. (a), (c), (d) and (e), and does so as follows:

a. The Board concludes that the use of the proposed farm supply store building and the proposed gas pumps and convenience store at the proposed locations on the proposed amended PDP will accomplish the purposes of the BR District. These proposed uses will support the agricultural industry, serve the needs of the rural residential and farming communities, and

provide opportunity for a combination of business uses not otherwise permitted in the rural areas of the County. The Board also concludes that there was sufficient evidence presented for the Board to conclude that the proposed uses will be compatible with neighboring land uses, and they so conclude;

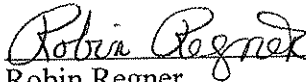
b. The Board concludes that the road providing access to the subject property, MD 97, continues to be appropriate for serving the business-related traffic generated by the additional uses proposed subject to addressing the State Highway Administration's comments regarding access;

c. The Board concludes that the issue of the adequacy of sight distance at the proposed point of access must be addressed by the Petitioner to SHA at the site development plan stage of development; and

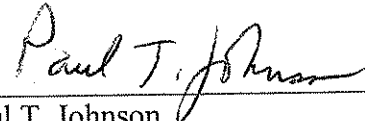
d. The Board concludes that the submitted landscape plan indicates that the screening along the subject property's boundaries will provide adequate buffering from adjacent properties in accordance with the Howard County Landscape Manual.

For the foregoing reasons, the Zoning Board of Howard County, Maryland, on this 1ST day of December, 2009 hereby GRANTS the Petitioner's request for approval of its proposed amended Preliminary Development Plan for the BR-zoned subject property to construct and use the gasoline service station, convenience store and farm supply store as proposed on the PDP subject to meeting the SHA's comments as noted in this decision

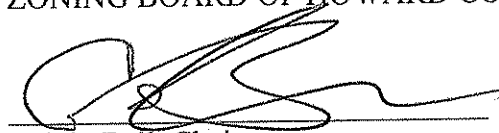
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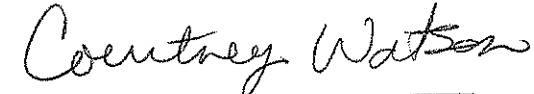

Robin Regner
Administrative Assistant

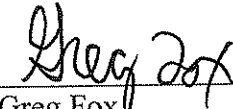
PREPARED BY HOWARD COUNTY
OFFICE OF LAW
MARGARET ANN NOLAN
COUNTY SOLICITOR

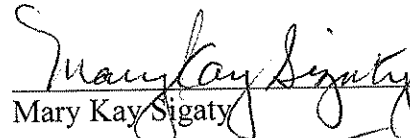

Paul T. Johnson
Deputy County Solicitor

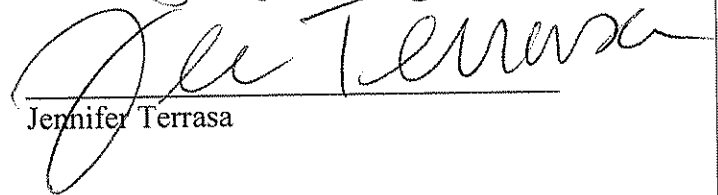
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